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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/821,364

04/09/2004

Delbert P. Keisling JR.

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STANDLEY LAW GROUP LLP  
495 METRO PLACE SOUTH  
SUITE 210  
DUBLIN, OH 43017

EXAMINER

EPPES, BRYAN L

ART UNIT

PAPER NUMBER

3609

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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/821,364	KEISLING, DELBERT P.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryan Eppes	3609	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/09/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/04</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment wherein the frame defines a tongue with an angled edge portion that is a protrusion (See claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

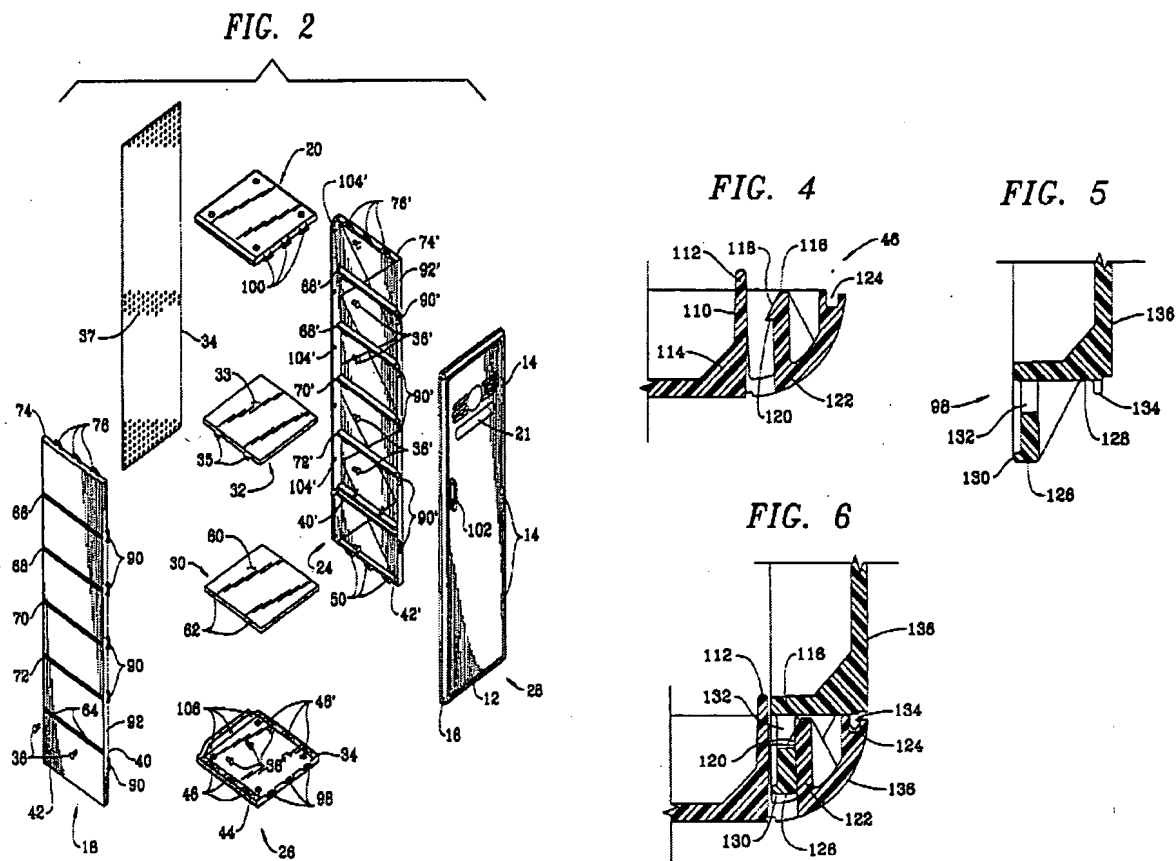
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2,4,6-12, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tisbo et al. (U.S. Patent Number 5,372,415).

a. Regarding claim 1, Tisbo discloses, with reference to Fig. 2, a frame consisting essentially of side panels 18 and 24 with top panel 20 and bottom panel 26, where the longitudinal edge defines a “tongue” shown as any one of, or all of 90. In this case, the upper and lower horizontal edge portion of 28 from the outer most points to the door 12 opening will be construed as “frame.” The “tongue” is further detailed in Fig. 5 being a close-up cross-sectional view. Tisbo discloses the vertical edges of 28 as a jamb 16 wherein the jamb includes a first prong 116 and second prong 112 disclosed in Fig. 4, a cross-sectional view of the jamb 16 (See column 6 line 24). Tisbo, with reference to Fig. 6, discloses the “tongue” 126 situated between first prong 116 and second prong 112 of the “jamb.”



- b. Regarding claim 2, Tisbo discloses the frame and jamb comprised of plastic (See column 1 line 7).
- c. Regarding claim 4, with reference to Fig. 6, Tisbo discloses an angled edge 130 on the frame and an angled edge 120 on the first prong of the jamb.
- d. Regarding claim 6, with reference to Fig. 5, Tisbo discloses an angled edge 130 that is a protrusion.
- e. Regarding claim 7, with reference to Fig. 6, Tisbo discloses the tongue of the frame interlocked with the jamb.

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- f. Regarding claim 8, the jamb 16 of Fig. 2 and Fig. 4 as disclosed in Tisbo forms an outlining structure considered to meet the broad limitation of a "profile."
- g. Regarding claim 9, in Fig. 2 Tisbo discloses a jamb 16 on both vertical sides of the door panel 12. Each jamb connects to a corresponding side panel 18 or 24.
- h. Regarding claim 10, in Fig. 2 Tisbo discloses a bottom panel 26 with an edge portion defining a tongue 98. The tongue 98 is further detailed in Fig. 5 (See column 5 line 49). Fig. 6 discloses the tongue portion 98, specifically reference 126, situated in a groove (the space between prong 116 and second prong 112) on the bottom edge of the frame (See column 6 line 4 describing the relationship between Fig. 8 reference numeral 160 and Fig. 4).
- i. Regarding claim 11, Tisbo discloses a groove (Fig. 6 the space between prong 116 and second prong 112) on the bottom edge of the frame (See column 6 line 4 describing the relationship between Fig. 8 reference numeral 160 and Fig. 4). In Fig. 2 Tisbo discloses a bottom panel 26 with an edge portion defining a tongue 98. The tongue 98 is further detailed in Fig. 5 (See column 5 line 49). Fig. 6 discloses the tongue portion 98, specifically reference 126, situated in a groove (the space between prong 116 and second prong 112) on the bottom edge of the frame.
- j. Regarding claim 12, Tisbo discloses the bottom panel 26 comprised of plastic (See column 1 line 7).

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- k. Regarding claim 14, in Fig. 2 Tisbo discloses a bottom panel 26 with an edge portion defining a tongue 98 wherein the tongue 98, further detailed in Fig. 5 (See column 5 line 49), has an angled edge portion 130. Tisbo also discloses the bottom edge of the frame having an angled edge 120. The angled edge of the bottom panel and angled edge of the frame engage each other as depicted in Fig. 6 (See column 5 line 58).
  - l. Regarding claim 15, Tisbo discloses, with reference to Fig. 6, the tongue of the bottom panel interlocked with the frame.
4. Claims 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolff et al. (U.S. Patent Number 5,951,126).
- m. Regarding claim 16, Wolff discloses in claim 2 a method for retrofitting an existing locker assembly. In this case, the assembly comprising one or more pre-existing doors and door openings. Since the term "retrofitting" may be defined as to replace existing parts, equipment, etc. with updated parts or systems, it is inherent in the Wolff reference that the frame and existing jamb be removed before replacement. The Wolff reference also provides a "frame" in the form of a sheet adapted to fit one or more door openings. Wolff discloses a jamb, in the form of a hinge, which is joined to the sheet whereby the unitary retrofit assembly is securely attached to the existing locker or lockers.
  - n. Regarding claim 20, Wolff discloses removing an existing door as described above. Claim 2 of the Wolff reference provides for at least one door panel that is received by a door opening "corresponding dimensionally and

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spatially to one or more door openings of said existing locker assembly,”  
whereby the unitary retrofit assembly is securely attached to the existing locker  
or lockers.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3,5, and13 are rejected under 35 U.S.C. 103(a) as being unpatentable  
over Tisbo et al. (U.S. Patent Number 5,372,415) in view of Keisling et al. (U.S. Patent  
Number 5,564,806).

o. Regarding claim 3, Tisbo teaches the limitations of claim 1 as described  
previously, except the specific use of high-density polyethylene (HDPE) and  
polyvinyl chloride (PVC). Keisling teaches the panels of a locker made of HDPE  
where “the connectors, including the hinges, protrusions and mating connectors  
may all be made of a material such as polyvinyl chloride (See column 3 line 38).  
It is well known in the art that HDPE has stronger intermolecular forces, higher  
tensile strength, and can withstand higher temperatures over lower density  
polyethylene. Also, it is well known in the art that PVC is relatively inexpensive to  
manufacture and is often used for its flexibility. Given these properties, it would



have been obvious, at the time the invention was made, to one of ordinary skill in the art to construct the frame out of HDPE and the jamb out of PVC.

p. Regarding claim 5, Tisbo teaches the limitations of claim 1 except where the angled edge portion of the frame is a groove instead of a protrusion. While both an angled protrusion and angled groove are required in this embodiment of a fastening device, it is immaterial as to which structure is the male or female structure. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the angled edge portion of the frame as a groove, since it has been held that mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

q. Regarding claim 13, Tisbo teaches the limitations of claim 11 except the specific use of high-density polyethylene (HDPE) for the frame and bottom panel. Keisling teaches the "top, bottom, side, rear, and front panels of each locker of the present invention are preferably made of a polyolefin material, such as high density polyethylene," (See column 3 line 38). It is well known in the art that HDPE has stronger intermolecular forces, higher tensile strength, and can withstand higher temperatures over lower density polyethylene. Given these properties, it would have been obvious, at the time the invention was made, to one of ordinary skill in the art to construct the bottom panel out of HDPE.

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7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff et al. (U.S. Patent Number 5,951,126) in view of Keisling et al. (U.S. Patent Number 5,564,806).

r. Wolff teaches all the limitations of claim 16 except for the ability of the structure to be snapped together. Keisling, in Fig. 17, discloses snapping components of a locker together thus the locker assembly does not take up space in shipping and the snap construction provides for easier repair (See column 1 line 50). For the above reasons it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Wolff reference by allowing the jamb and frame to be snapped together as taught by Keisling.

#### **Allowable Subject Matter**

8. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jamison et al. (U.S. Patent Number 3,853,367)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Eppes whose telephone number is (571) 270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vic Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Vic Batson  
Supervisory Patent Examiner  
Art Unit 3600

BE  
04/30/2007